

SENATE, No. 1073

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED FEBRUARY 4, 2010

Sponsored by:

Senator SHIRLEY K. TURNER

District 15 (Mercer)

Senator THOMAS H. KEAN, JR.

District 21 (Essex, Morris, Somerset and Union)

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Senator Ruiz

SYNOPSIS

Establishes a permanent Interdistrict Public School Choice Program.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/14/2010)

1 AN ACT establishing a permanent Interdistrict Public School Choice
2 Program, supplementing chapter 36B of Title 18A of the New
3 Jersey Statutes, and repealing parts of the statutory law.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. This act shall be known and may be cited as the "Interdistrict
9 Public School Choice Program Act."

10
11 2. As used in this act:

12 "Choice district" means a public school district, established
13 pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey
14 Statutes, which is authorized under the interdistrict public school
15 choice program to open a school or schools to students from
16 sending districts;

17 "Commissioner" means the Commissioner of Education;

18 "Sending district" means the district of residence of a choice
19 student.

20

21 3. The Commissioner of Education shall establish an
22 interdistrict public school choice program which shall provide for
23 the creation of choice districts. A choice district may enroll
24 students across district lines in designated schools of the choice
25 district.

26

27 4. a. A proposed choice district shall submit an application to
28 the commissioner no later than April 30 in the year prior to the
29 school year in which the choice program will be implemented;
30 except that for the first year of implementation of the program
31 pursuant to P.L. , c. (C.) (pending before the Legislature as
32 this bill), the application shall be submitted no later than the date
33 specified by the commissioner. The application shall include, but
34 not be limited to, the following information:

35 (1) a description of programs and schools and the number of
36 student openings in each school identified by grade level which are
37 available for selection;

38 (2) the provision for the creation of a parent information center;

39 (3) a description of the student application process and any
40 criteria required for admission; and

41 (4) an analysis of the potential impact of the program on student
42 population diversity in all potential participating districts and a plan
43 for maintaining diversity in all potential participating districts,
44 which plan shall not be used to supersede a court-ordered or
45 administrative court-ordered desegregation plan.

46 The commissioner shall notify a choice district of the approval or
47 disapproval of its application no later than July 30, and the reasons
48 for disapproval shall be included in the notice; except that for the

1 first year of implementation of the program pursuant to P.L. , c.
2 (C.) (pending before the Legislature as this bill), notification
3 shall be no later than the date specified by the commissioner.

4 The commissioner shall notify the State Board of Education of
5 the approval of a choice district application and the State board
6 shall include a public notice of the approval on the next agenda for
7 its public monthly meeting.

8 b. The commissioner may take appropriate action, consistent
9 with State and federal law, to provide that student population
10 diversity in all districts participating in a choice district program is
11 maintained. Student population diversity shall include, but not be
12 limited to, the ethnic, racial, economic, and geographic diversity of
13 a district's student population. The actions may include, but need
14 not be limited to:

15 (1) directing a choice district to take appropriate steps to
16 implement successfully the district's plan for maintaining student
17 population diversity;

18 (2) restricting the number of choice students from a sending
19 district or the authority of a choice district to accept choice students
20 in the future; and

21 (3) revoking approval of the choice district. Any choice student
22 who is attending a designated school in a choice district at the time
23 of the commissioner's revocation of approval shall be entitled to
24 continue to be enrolled in that school until graduation.

25
26 5. The commissioner shall evaluate an application submitted by
27 a proposed choice district according to the following criteria:

28 a. the fiscal impact on the district;

29 b. the quality and variety of academic programs offered within
30 the district;

31 c. the potential effectiveness of the student application process
32 and of the admissions criteria utilized;

33 d. the impact on student population diversity in the district; and

34 e. the degree to which the program will promote or reduce
35 educational quality in the choice district and the sending districts.

36
37 6. Any choice district established by the commissioner prior to
38 the effective date of P.L. , c. (C.) (pending before the
39 Legislature as this bill) is authorized to continue operation as if the
40 choice district had been approved pursuant to the provisions of
41 P.L. , c. (C.) (pending before the Legislature as this bill).

42
43 7. a. The parents or guardian of a student shall notify the
44 sending district of the student's intention to participate in the choice
45 program and shall submit an application to the choice district,
46 indicating the school the student wishes to attend, no later than the
47 date specified by the commissioner. To be eligible to participate in
48 the program, a student shall be enrolled at the time of application in

1 grades preschool through 12 in a school of the sending district and
2 have attended school in the sending district for at least one full year
3 immediately preceding enrollment in the choice district; except that
4 the one-year requirement shall not apply to a student enrolling in
5 preschool or kindergarten in the choice district, if that student has a
6 sibling enrolled in the choice district. Openings in a designated
7 school of a choice district shall be on a space-available basis, and if
8 more applications are received for a designated school than there
9 are spaces available, a lottery shall be held to determine the
10 selection of students. Preference for enrollment may be given to
11 siblings of students who are enrolled in a designated school.

12 If there is an opening in a designated school of a choice district
13 and there is no student who is enrolled in a sending district who
14 meets the attendance requirements of this subsection, including a
15 student who has been placed on a waiting list based on a lottery
16 held in the choice district, then the choice district may fill that
17 opening with a public school student who does not meet the
18 attendance requirements of this subsection or a nonpublic school
19 student.

20 b. A choice district may evaluate a prospective student on the
21 student's interest in the program offered by a designated school.
22 The district shall not discriminate in its admission policies or
23 practices on the basis of athletic ability, intellectual aptitude,
24 English language proficiency, status as a handicapped person, or
25 any basis prohibited by State or federal law.

26 c. A choice district shall not prohibit the enrollment of a
27 student based upon a determination that the additional cost of
28 educating the student would exceed the amount of additional State
29 aid received as a result of the student's enrollment. A choice
30 district may reject the application for enrollment of a student who
31 has been classified as eligible for special education services
32 pursuant to chapter 46 of Title 18A of the New Jersey Statutes if
33 that student's individualized education program could not be
34 implemented in the district, or if the enrollment of that student
35 would require the district to fundamentally alter the nature of its
36 educational program, or would create an undue financial or
37 administrative burden on the district.

38 d. A student whose application is rejected by a choice district
39 shall be provided with a reason for the rejection in the letter of
40 notice. The appeal of a rejection notice may be made to the
41 commissioner.

42 e. Once a student is enrolled in a designated school, the student
43 shall not be required to reapply for each school year and shall
44 continue to be permitted to be enrolled until graduation. A student
45 shall be permitted to transfer back to a school of the sending district
46 or may apply to a different choice district during the next
47 application period.

1 f. A choice district shall accept all of the credits earned toward
2 graduation by a student in the schools of the sending district.

3 g. A choice district shall notify a sending district upon the
4 enrollment of a choice student resident in that district.

5
6 8. a. (1) The school board of a sending district may adopt a
7 resolution to restrict enrollment of its students in a choice district to
8 a maximum of 10% of the number of students per grade level per
9 year limited by any resolution adopted pursuant to this paragraph
10 and 15% of the total number of students enrolled in the sending
11 district, provided that the resolution shall be subject to approval by
12 the commissioner upon a determination that the resolution is in the
13 best interest of the district's students and that it will not adversely
14 affect the district's programs, services, operations, or fiscal
15 conditions, and that the resolution will not adversely affect or limit
16 the diversity of the remainder of the student population in the
17 district who do not participate in the choice program.

18 (2) Enrollment restriction percentages adopted by any resolution
19 pursuant to paragraph (1) of this subsection shall not be
20 compounded from year to year and shall be based upon the
21 enrollment counts for the year preceding the sending district's initial
22 year of participation in the choice program, except that in any year
23 of the program in which there is an increase in enrollment, the
24 percentage enrollment restriction may be applied to the increase and
25 the result added to the preceding year's count of students eligible to
26 attend a choice district. If there is a decrease in enrollment at any
27 time during the duration of the program, the number of students
28 eligible to attend a choice district shall be the number of students
29 enrolled in the choice program in the initial year of the district's
30 participation in the program, provided that a student attending a
31 choice district school shall be entitled to remain enrolled in that
32 school until graduation.

33 (3) The calculation of the enrollment of a sending district shall
34 be based on the enrollment count as reported on the Application for
35 State School Aid in October preceding the school year during which
36 the restriction on enrollment shall be applicable.

37 b. A choice district shall not be eligible to enroll students on a
38 tuition basis pursuant to N.J.S.18A:38-3 while participating in the
39 interdistrict public school choice program. Any student enrolled on
40 a tuition basis prior to the establishment of the choice program shall
41 be entitled to remain enrolled in the choice district as a choice
42 student.

43
44 9. a. Transportation, or aid in-lieu-of transportation, shall be
45 provided to an elementary school pupil who lives more than two
46 miles from the choice district school of attendance and to a
47 secondary school pupil who lives more than two and one-half miles
48 from the choice district school of attendance, provided the choice

1 district school is not more than 20 miles from the residence of the
2 pupil. Transportation, or aid in-lieu-of transportation, shall be the
3 responsibility of the sending district. The choice district and the
4 sending district may enter into a shared service agreement in
5 accordance with the “Uniform Shared Services and Consolidation
6 Act,” sections 1 through 35 of P.L.2007, c.63 (C.40A:65-1 through
7 C.40A:65-35).

8 b. Notwithstanding the provisions of section 20 of P.L.2007,
9 c.260 (C.18A:7F-62) to the contrary, the sending district shall
10 receive State aid for transportation calculated pursuant to section 15
11 of P.L.2007, c.260 (C.18A:7F-57) for a student transported or
12 receiving aid-in-lieu-of transportation pursuant to subsection a. this
13 section.

14
15 10. A choice district shall establish and maintain a parent
16 information center. The center shall collect and disseminate
17 information about participating programs and schools and shall
18 assist parents and guardians in submitting applications for
19 enrollment of students in an appropriate program and school. The
20 information about participating programs and schools shall be
21 posted on the choice district’s website.

22
23 11. The commissioner shall annually report to the State Board of
24 Education, the Legislature, and the Joint Committee on the Public
25 Schools on the effectiveness of the interdistrict public school choice
26 program. The commissioner’s annual report shall be posted on the
27 Department of Education’s website and on the website of each
28 choice district.

29
30 12. Sections 1 through 10 and 14 through 17 of P.L.1999, c.413
31 (C.18A:36B-1 through 18A:36B-13) are repealed.

32
33 13. This act shall take effect immediately.

34
35
36 STATEMENT

37
38 This bill makes permanent the interdistrict public school choice
39 program. A five-year interdistrict public school choice program
40 was established in 2000 and expired on June 30, 2005. As under
41 the original choice program, the permanent program provides for
42 the establishment of choice districts which will be able to enroll
43 students across district lines in designated schools of the choice
44 district. The permanent program, however, includes no limitation
45 on the total number of choice districts permitted in the State.

46 A local or regional district electing to participate in the program
47 would submit an application to the commissioner no later than April
48 30 in the year prior to the school year in which the choice program

1 would be implemented, and the commissioner would notify an
2 applicant district of the approval or disapproval of its application no
3 later than July 30. The commissioner is authorized to take
4 appropriate action, consistent with State and federal law, to provide
5 that student population diversity in all districts participating in a
6 choice district program is maintained.

7 A proposed choice district's application would be evaluated by
8 the commissioner using such criteria as the fiscal impact on the
9 district, the quality and variety of academic programs offered within
10 the district, and the degree to which the program will promote or
11 reduce educational quality in the choice district and the sending
12 districts.

13 The parents or guardian of a student would notify the sending
14 district of the student's intention to participate in the choice
15 program and submit an application to the choice district, indicating
16 the school the student wishes to attend. To be eligible to participate
17 in the program, a student must be enrolled at the time of application
18 in grades preschool through 12 in a school of the sending district
19 and have attended school in the sending district for at least one full
20 year immediately preceding enrollment in the choice district.
21 However, the one-year requirement would not apply to a student
22 enrolling in preschool or kindergarten in the choice district, if the
23 student's sibling also attends that choice district. Openings in a
24 designated school of a choice district would be on a space available
25 basis, and if more applications are received for a designated school
26 than there are spaces available, a lottery would be held to determine
27 the selection of students. Preference for enrollment may be given to
28 siblings of students who are enrolled in a designated school.

29 If a choice district has openings that are not filled, the choice
30 district may accept public school students who do not meet the
31 attendance requirement and nonpublic school students.

32 A choice district would be permitted to evaluate a prospective
33 student on the student's interest in the program offered by a
34 designated school. The district may not, however, discriminate in
35 its admission policies or practices on the basis of athletic ability,
36 intellectual aptitude, English language proficiency, status as a
37 handicapped person, or any other basis prohibited by State or
38 federal law.

39 In addition, a choice district could not prohibit the enrollment of
40 a student based upon a determination that the additional cost of
41 educating the student would exceed the amount of additional State
42 aid received as a result of the student's enrollment. A choice
43 district may reject the application for enrollment of a student who
44 has been classified as eligible for special education services if that
45 student's individualized education program could not be
46 implemented in the district, or if the enrollment of that student
47 would require the district to fundamentally alter the nature of its

1 educational program, or would create an undue financial or
2 administrative burden on the district.

3 The school board of a sending district could adopt a resolution to
4 restrict enrollment of its students in a choice district to a maximum
5 of 10% of the number of students per grade level per year in the
6 sending district and to 15% of the total number of students enrolled
7 in the sending district. This resolution would be subject to approval
8 by the commissioner upon certain determinations, including the
9 determination that the enrollment restriction is in the best interest of
10 the district's students. The bill provides that a student attending a
11 choice district as a choice student is entitled to remain enrolled in
12 that school until graduation.

13 Transportation, or aid in-lieu-of transportation, would be
14 provided to an elementary school pupil who lives more than two
15 miles from the choice district school of attendance and to a
16 secondary school pupil who lives more than two and one-half miles
17 from the choice district school of attendance, provided the choice
18 district school is not more than 20 miles from the residence of the
19 pupil. Transportation, or aid in-lieu-of transportation, would be the
20 responsibility of the sending district. The sending district will
21 receive State aid for transportation as calculated under current law
22 for a choice student who is eligible to be transported or to receive
23 aid-in-lieu of transportation.

24 A choice district is required to establish and maintain a parent
25 information center. The center would collect and disseminate
26 information about participating programs and schools and assist
27 parents and guardians in submitting applications for enrollment of
28 students in an appropriate program and school.

29 This bill recognizes the choice districts established under the
30 expired interdistrict public school choice program and provides that
31 those choice districts will be permitted to continue operation as if
32 they had been approved under the provisions of the bill. Funding
33 for choice students was addressed in the "School Funding Reform
34 Act of 2008," and aid for these students will continue to be
35 calculated pursuant to that law under section 20 of P.L.2007, c.260
36 (C.18A:7F-62).

37 The bill repeals the sections of law which established the five-
38 year interdistrict public school choice program which expired in
39 2005.